

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, ET AL.,

Defendants.

CIVIL ACTION NO. 1:23-CV-00853-DAE

DEFENDANTS' PRETRIAL FILINGS

Pursuant to the Court's Order Resetting Bench Trial and Related Deadlines, ECF 214, Defendants Greg Abbott, in his official capacity as Governor of the State of Texas, and the State of Texas, hereby submit their Pre-Trial Filings. These include the following:

1. An appropriate identification of each exhibit as specified in Local Rule 16(f) (except those that are to be used for impeachment only), separately identifying those that Defendants expect to offer and those that the Defendants may offer if the need arises.
2. The name and, if not previously provided, the address and telephone number of each witness (except those to be used for impeachment only), separately identifying those that Defendants expect to offer and those that Defendants may offer if the need arises.
3. The names of those witnesses whose testimony is expected to be presented by means of a deposition and designation by reference to page and line of the testimony to be offered (except those to be used for impeachment only), and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.
4. An estimate of the probable length of trial; and
5. Proposed Stipulations of Fact.¹

¹ Plaintiff chose to submit to the Court its portion of the pre-trial filings separately, so this submission includes only the Defendants' portion of the pre-trial filings and the Stipulations of Fact agreed to with Plaintiff.

I. DEFENDANTS' WITNESS LIST

Defendants currently anticipate that they **will call** the following witnesses (in alphabetical order) at trial:

1. Dr. Kathy Alexander
2. Michael Banks
3. Thomas P. Ciarametaro
4. Victor Escalon
5. Loren Flossman (by declaration and/or prior testimony)
6. Ramon Gonzalez (by declaration)
7. Cassandra Hart
8. Dr. Eleftherios Iakovou
9. Christine Magers
10. Dr. Heather Miller
11. Ivan Morua (by deposition)
12. Chris Nordloh (by declaration)
13. Carlos Rubinstein
14. Rodney Scott
15. Herman Settemeyer
16. Dr. Douglas F. Shields
17. Walker Smith (by deposition)
18. Ancil Taylor
19. Ben Valdez (by declaration)
20. Tong Zhao

The foregoing witnesses may be presented as witnesses at trial through Declarations and/or testimony received on the motion for preliminary injunction in this case (*see* Fed. R. Civ. P 65(a)(2); through deposition testimony in this case; and/or through live testimony at trial. Defendants have

added parenthetical notes beside the names of those witnesses they expect to present using their deposition, declaration and/or prior testimony.

Defendants currently anticipate that they **may call** in addition any of the following witnesses (in alphabetical order) at trial:

1. Georgina “Gina” Bermea
2. Isela Canava (adverse witness)
3. Michael Cintron (adverse witness)
4. Micky Donaldson (adverse witness)
5. Margaret Gaffney-Smith (adverse witness)
6. Abraham Garcia (adverse witness)
7. Mario Gomez (adverse witness)
8. Geir Kalhagen
9. Kevin Kiefer (adverse witness)
10. Neil Lebsock (adverse witness)
11. Justin Peters (adverse witness)
12. Joseph Shelnutt (adverse witness)
13. Hilary Quam (adverse witness)
14. Any witnesses designated as expert witnesses or expert rebuttal witnesses by Plaintiff (adverse witnesses).

The foregoing witnesses may be called as witnesses at trial through Declarations and/or testimony received on the motion for preliminary injunction in this case (see Fed. R. Civ. P. 65(a)(2); through deposition testimony in this case; and/or through live testimony at trial.

Defendants reserve the right to call such rebuttal witnesses as they deem appropriate based on the testimony and other evidence admitted at trial; to change the order of witnesses set forth above; to call less than all of the witnesses set forth above; and to call witnesses not listed above because of circumstances not anticipated at this time.

II. DEFENDANTS' EXHIBIT LIST

Defendants currently anticipate offering into evidence at trial the following Exhibits (not necessarily in the order listed). Those Exhibits marked with an asterisk (*) were admitted into evidence at the preliminary injunction hearing in this case on August 22, 2023, and therefore under Fed. R. Civ. P. 65(a)(2) are deemed part of the trial record and need not be repeated at trial.

1. 1975 USACE Navigability Study and Navigability Letter (Beg. Bates USACE0001132).
2. USCG Navigability Determination, Rio Grande River, TX (Oct. 19, 1984)
3. 33 C.F.R. 2.36. Navigable waters of the United States, navigable waters, and territorial waters. [govinfo.gov/content/pkg/CFR-2023-title33-vol1/xml/CFR-2023-title33-vol1-sec2-36.xml](https://www.govinfo.gov/content/pkg/CFR-2023-title33-vol1/xml/CFR-2023-title33-vol1-sec2-36.xml).
4. 33 C.F.R. 2.40. Maintenance of decisions. <https://www.govinfo.gov/content/pkg/CFR-2023-title33-vol1/xml/CFR-2023-title33-vol1-sec2-36.xml>.
5. 33 C.F.R. 322.2. Definitions. <https://www.govinfo.gov/content/pkg/CFR-2010-title33-vol3/pdf/CFR-2010-title33-vol3-sec322-2.pdf>.
6. 33 C.F.R. 326. Enforcement. <https://www.govinfo.gov/content/pkg/CFR-2011-title33-vol3/xml/CFR-2011-title33-vol3-part326.xml>.
7. 33 C.F.R. 329. Definition of Navigable Waters of the United States. <https://www.govinfo.gov/content/pkg/CFR-2012-title33-vol3/pdf/CFR-2012-title33-vol3-part328.pdf>
8. Declaration of Ben Valdez*
9. Declaration of Chris Nordloh*
10. Declaration of Ramon Gonzalez*
11. Eagle Pass/Piedras Negras Daily Flow Charts
12. Expert Witness Report, Mr. Thomas P. Ciarametaro. (Served Jun. 14, 2024).
13. Expert Witness Report, Prof. Eleftherios Iakovou, Ph.D. (Served Jun. 14, 2024).
14. Map (Ex. 13 to Dep. of Dr. B. Johnson)
15. Map of Eagle Pass and Surrounding Area (Ex. 20 to Dep. of Dr. B. Johnson)

16. Map of Eagle Pass, Texas 1887 (Ex. 18 to Dep. of Dr. B. Johnson)
17. Marinetraffic.com Navigational Heatmap
18. Marinetraffic.com Statement on Data Collection
19. Melanie Casner Feb. 16, 2024, Email to Timothy MacAllister regarding watercraft and operations in the Rio Grande (US0002301).
20. National Waterway Network List of Navigable Waterways
21. Navigational Heatmap NOAA
22. US Waterway Vessel Density 2016-2023
23. US Waterway Vessel Density 2016-2023 Descriptions
24. USACE National Waterways Study - A Framework for Decision Making - Final Report NWS-83-1, (Jan. 1983).
25. USACE Texas Waterway Profile
26. USACE Texas Waterway Traffic Report
27. Expert Witness Report, Dr. Tong Zhao. (Served Jun. 14, 2024).
28. Expert Witness Report, Dr. F. Douglas Shields, Jr., Reasonableness of proposed improvement of the Rio Grande for navigation downstream of Amistad Dam (Served Jun. 14, 2024)
29. Expert Witness Report, Mr. Ancil Taylor. (Served Jun. 14, 2024).
30. Expert Witness Report, Mr. Ancil Taylor, First Supplemental Report. (Served on Jul. 1, 2024).
31. Expert Witness Report, Mr. Carlos Rubinstein & Mr. Herman R. Settemeyer, P.E., Expert Report on Water and Water Right Impacts Along the Rio Grande in Texas - Particularly as it Relates to Navigation as a Beneficial Use of Water. (Served Jun. 14, 2024).
32. Expert Witness Report, Ms. Christine Magers and Ms. Cassandra Hart, Environmental Resources & Impacts Review. (Served Jun. 14, 2024).
33. Expert Witness Report, Ms. Christine Magers and Ms. Cassandra Hart, Environmental Resources & Impacts Review, First Supplemental Report. (Served Jun. 27, 2024).

34. Water Levels at Amistad Reservoir
35. Amistad Dam Flood Operations and Safety Manual Produced by USIBWC on Jul. 15, 2024.
36. Amistad Dam Water Release Requests Protocol
37. FEMA Eagle Pass Special Flood Hazard Area Map
38. IBWC Rio Grande Allotment, Current Cycle (Oct. 25, 2020, thru Oct. 12, 2024).
39. Joint Agency Guide - SMART Planning & USACE Feasibility Studies - Guide to Coordination and Engagement with the Services (Sep. 2016).
40. U.S. Army Corps of Engineers SMART Planning Feasibility Studies - A Guide to Coordination and Engagement with the Services (Sep. 2015).
41. National Academies Press, Funding and Managing the U.S. Inland Waterways System: What Policy Makers Need to Know: What Policy Makers Need to Know (2015).
42. Texas Water Development Plan
43. Water Treaty of 1944 – Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande Treaty between the United States and Mexico
44. Tables 1-5 excerpted from Doug Shields’ Expert Report
45. “Head of Navigation” (Ex. 7 to Dep. of Dr. B. Johnson)
46. “Rio Grande” by Leon C. Metz (Ex. 8 to Dep. of Dr. B. Johnson)
47. “San Antonio Crossing” (Ex. 4 to Dep. of Dr. B. Johnson)
48. “San Antonio Crossing” (Ex. 6 to Dep. of Dr. B. Johnson)
49. Excerpt from “River of Lost Dreams” by P. Kelley (Ex. 10 to Dep. of Dr. B. Johnson)
50. Excerpt from “Great River” by P. Horgan (Ex. 15 to Dep. of Dr. B. Johnson)
51. Excerpt from “Upper Rio Grande” by B. P. Tilden (Ex. 9 to Dep. of Dr. B. Johnson)
52. Article from El Paso Herald – Death of Cunningham, Jul. 18 1901 (Ex. 14 to Dep. of Dr. B. Johnson).

53. Excerpt from Sul Ross State Teachers College Bulletin 48 (Ex. 16 to Dep. of Dr. B. Johnson)
54. Expert Witness Report, Dr. Heather Miller. (Served Jun. 14, 2024).
55. Handbook of Texas Online Entry (“Rio Grande”) by Tex. State Hist. Ass’n and Metz*
56. Handwritten Letter from D. Kingsbury to Maj. Chapman (Ex. 11 to Dep. of Dr. B. Johnson)
57. Letter from D. Kingsbury to Maj. Chapman dated May 18, 1849 (Ex. 12 to Dep. of Dr. B. Johnson)
58. Monthly Return of Public Animals (Ex. 17 to Dep. of Dr. B. Johnson)
59. Report to Congress of American Section of Int’l Water Comm’n (Ex. 8 to Dep. of Dr. B. Johnson)
60. Appendix 3, Table of River Mileages, (Ex. 5 to Dep. Of A. Cortez)
61. Declaration of Loren Flossman*
62. Declaration of Victor Escalon*
63. 33 C.F.R. 332.3(a). Activities requiring permits; General. <https://www.govinfo.gov/content/pkg/CFR-2023-title33-vol3/pdf/CFR-2023-title33-vol3-sec322-3.pdf>.
64. 33 U.S.C. § 401. Construction of bridges, causeways, dams or dikes generally; exemptions. <https://www.govinfo.gov/content/pkg/USCODE-2022-title33/html/USCODE-2022-title33-chap9-subchapI-sec401.htm>.
65. 33 U.S.C. § 403. Obstruction of navigable waters generally; wharves; piers, etc.; excavations and filling in. [govinfo.gov/content/pkg/USCODE-2022-title33/html/USCODE-2022-title33-chap9-subchapI-sec403.htm](https://www.govinfo.gov/content/pkg/USCODE-2022-title33/html/USCODE-2022-title33-chap9-subchapI-sec403.htm).
66. 33 U.S.C. § 406. Penalty for wrongful construction of bridges, piers, etc.; removal of structures. <https://www.govinfo.gov/content/pkg/USCODE-2022-title33/html/USCODE-2022-title33-chap9-subchapI-sec406.htm>.
67. 33 U.S.C. § 413. Duty of United States attorneys and other Federal officers in enforcement of provisions; arrest of offenders. <https://www.govinfo.gov/content/pkg/USCODE-2022-title33/html/USCODE-2022-title33-chap9-subchapI-sec413.htm>.
68. 85 Fed. Reg. 14953 et seq. (March 16, 2020)*

69. Binational Joint Survey (IBWC0006615).
70. City of Eagle Pass, TX Future Land Use Map
71. Civil Works 101 - Becky Moyer, Chief, Planning & Policy Southwestern Division (Aug. 27, 2015)
72. Close up Google Earth of the Buoys (USACE0008019)
73. Congressional Research Service - Process for U.S. Army Corps of Engineers (USACE) Projects (Mar. 7, 2024).
74. Convention of 1889 – Convention between the United States and Mexico
75. IBWC Emails (Beg. Bates IBWC0004406)
76. IBWC List of Structures, Produced by the USIBWC on Jul. 15, 2024
77. Micky D Donaldson Jul. 11, 2023, Email to DRT OPS Div Subject: DPS Buoy Deployment Update (CBP0000319)
78. Photograph of Rio Grande River (Ex. 4 to Dep. Of Margaret Gaffney-Smith)
79. Photograph of Rio Grande River (Ex. 7 to Dep. Of Margaret Gaffney-Smith)
80. Texas DPS Drone Video of Rio Grande near Location of Floating Buoy Barrier (Aug. 17, 2023)*
81. Video of the segment of the Rio Grande River between River Mile Markers 275.5 and 610 (DPS).
82. Photographs of Buoys
83. Photograph Migrants walking near buoys AFP via Getty Images
84. USCBP Jun. 14, 2023, Briefing on potential deployment of floating barrier system. (CBP0000089)
85. USIBWC Emails sent 2/11/24 and 2/12/24 (Beg. Bates IBWC0020469)
86. ABC News (A. Garcia), “3-Year-Old Boy Dies After Being Swept Away While Crossing Rio Grande with His Family” (Sept. 21, 2023)
87. CBS News, “At Least 853 Migrants Died Crossing the U. S. – Mexico Border in Past 12 Months – A Record High” (Oct. 28, 2022)*

88. CNN (R. Flores & R. Nieves), A Texas Sheriff Says He Finds the Bodies of Migrants Almost Every Day. 2022 Could Be the Deadliest Year Yet for Migrants Crossing the US Border (Aug. 24, 2022)
89. CNN Politics, “First on CNN: A Record Number of Migrants Have Died Crossing the US – Mexico Border” (Sep. 7, 2022)*
90. Fox News (L. Richard), “Texas DPS Recovered Four Bodies, Including Infant, From Rio Grande in Eagle Pass in 48 Hours: Spokesman” (July 4, 2023)
91. Fox News “UN Migration Study Deems US – Mexico Border ‘Deadliest’ Land Route in the World (July 4, 2022)*
92. KSAT News (R. Salinas & D. Ibarra), “Child, Man Drowned Within Two Days While Crossing Rio Grande” (Sept. 22, 2023)
93. Micky D Donaldson Aug. 3, 2023, Email on Deceased Male whose body floated downriver to the buoys (CBP0000341)
94. Texas Monthly (A. Nelsen), “What Happens to the Migrants Who Don’t Make It?” (Apr. 2024)
95. Texas Tribune (J. L. Carver), “Infant Girl Among Four Found Dead in Rio Grande” (July 4, 2023)
96. Texas Tribune (U. Garcia), “In a Border Graveyard, Volunteers Exhume Migrants’ Bodies and Search for Their Families” (Jan. 24, 2023)
97. Texas Tribune (W. Melhado), “Authorities Report Nine Drowning Victims After Deadly Rio Grande Crossing” (Sept. 3, 2022)
98. U S News (D. Lewak), “Huge Rise in Border Deaths from Drowning, Dehydration Overwhelm Texas Border Town’s Morgues” (Aug. 27, 2022)
99. U. S Customs and Border Protection, “Border Patrol Warns Immigrants of Life-Threatening Risks of Crossing the Rio Grande River” (May 17, 2019)*
100. U S Customs and Border Protection, “Border Rescues and Mortality Data” (July 24, 2023)*
101. U.S. News (E. A. J. Connelly), Disturbing Video Captures Migrants Drowning in Rio Grande” (Mar. 20, 2021)
102. Missing Migrants Project “Annual Regional Overview – Executive Summary”*
103. New York Times (D. Montgomery & M. Jordan), “Nine Migrants Drown as Dozens Are Swept Down Rio Grande” (Sept. 2, 2022)

104. New York Times (M. Jordan), “9-Year-Old Migrant Girl Dies Trying to Cross Rio Grande into U. S.” (Mar. 26, 2021)
105. World Radio Article - Enforcing the law at the border - Immigration is taking its toll on the border patrol agents in South Texas, hosted by Bonnie Pritchett (Nov. 17, 2022)
106. CBP Email to EGT Supervisors Jan. 24, 2024, On woman crossing the river who was stopped from crossing by buoys (CBP0000132)
107. Micky D. Donaldson Aug. 29, 2023, Email on CBP performing zero rescues in location of Buoys and C-Wire (Beg. Bates CBP0000761)
108. Summary of Press Statement (IBWC0007302)
109. “Biden-Harris Administration Designates Fentanyl Combined with Xylazine as an Emerging Threat to the United States” (Apr. 12, 2023)
110. “FACT SHEET: Biden-Harris Administration Announces Strengthened Approach to Crack Down on Illicit Fentanyl Supply Chains” (Apr. 11, 2023)
111. “Fact Sheet: White House Releases 2022 National Drug Control Strategy that Outlines Comprehensive Path Forward to Address Addiction and the Overdose Epidemic” (Apr. 21, 2022)*
112. ABC News, “FBI Director Warns of ‘Dangerous Individuals’ Coming Across the Southern Border” (March 11, 2024)
113. ABC News, “FBI Director Warns of ‘Dangerous Individuals’ Coming Across the Southern Border” (March 11, 2024)
114. Blankley, “Abbott: One Person Dies Every Day in Harris County Because of Fentanyl”, thecentersquare.com (July 14, 2022)
115. Blankley, “Retired FBI Execs to Congress: Invasion at Border ‘Perilous’ for America”, centersquare.com (Jan. 26, 2024)
116. Blankley, “Retired FBI Execs to Congress: Invasion at Border ‘Perilous’ for America”, centersquare.com (Jan. 26, 2024)
117. Blankley, “Three More Texas Counties Declare Invasion, Bringing Total to 50”, thecentersquare.com (Jan. 6, 2024) Declaration of Victor Escalon²*
118. Border Disaster Declarations by Governor Greg Abbott

² Exhibit admitted into evidence at Preliminary Injunction Hearing.

- A. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated May 31, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- B. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated June 30, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- C. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated July 30, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- D. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated August 29, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- E. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Oct. 28, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- F. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Nov. 27, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- G. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Dec. 23, 2021, enclosing Proclamation of same date signed by Governor Greg Abbott
- H. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Jan. 22, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- I. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Feb. 21, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- J. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated March 23, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- K. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Apr. 22, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- L. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated May 22, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- M. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated June 21, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott

- N. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated July 21, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- O. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated August 20, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- P. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Sept. 19, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- Q. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Oct. 19, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- R. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Nov. 18, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- S. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Dec. 16, 2022, enclosing Proclamation of same date signed by Governor Greg Abbott
- T. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Jan. 20, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- U. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Feb. 20, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- V. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated March 22, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- W. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated Apr. 21, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- X. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated May 12, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- Y. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated June 11, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott
- Z. Letter from Gregory S. Davidson, Executive Clerk to the Governor of Texas, to the Secretary of State of Texas dated June 29, 2023, enclosing Proclamation of same date signed by Governor Greg Abbott

119. About the HIDTA Program: South Texas HIDTA Southwest Border (2024).
120. Daily Caller (<https://dailycaller.com>, “Exclusive: Biden Admin Watered Down Vetting Process for Chinese Illegal Immigrants, Email Shows” (Jan. 2, 2024)
121. Daily Wire, “‘The Country Has Been Invaded’: Former FBI Officials Issue Grave Warning on Biden’s Open Border” (Jan. 26, 2024)
122. Daily Wire, “‘The Country Has Been Invaded’: Former FBI Officials Issue Grave Warning on Biden’s Open Border” (Jan. 26, 2024)
123. DEA Website “Fentanyl Awareness”*
124. Drug Enforcement Administration, “National Drug Threat Assessment 2024” (May 2024)
125. Eagle Pass City Council Minutes, including Emergency Resolution
126. Executive Order 14059, 86 FR 71549 (“Imposing Sanctions on Foreign Person Involved in the Global Illicit Drug Trade” (Dec. 17, 2021)
127. Executive Order by Gov. Greg Abbott (July 7, 2022)*
128. Executive Order by Gov. Greg Abbott (May 31, 2021)*
129. Executive Order by Gov. Greg Abbott (Sept. 21, 2022)*
130. Fox News, “Senate Republicans Cite ‘Sound of Freedom’ to Demand Hearings on Human Trafficking, Biden Border Policies” (July 29, 2023)
131. Fox News, “US Customs Confirms 4th Iranian ‘Special Interest Alien’ Apprehended This Month in Eagle Pass, Texas (Oct. 15, 2023)
132. Hearing transcript of hearing on The Biden Border Crisis: Part III before the Subcommittee on Immigration Integrity, Security and Enforcement, Committee on the Judiciary, U.S. House of Representatives, One Hundred Eighteenth Congress, First Session (May 23, 2023)
133. Homeland Security Comm’n, U. S. House of Rep., “Factsheet: Encounters of Chinese National Surpass All Fiscal Year 2023 at the Southwest Border” (Apr. 18, 2024)
134. Homeland Security Comm’n, U. S. House of Rep., “Factsheet: Final FY23 Numbers Show Worst Year at America’s Borders – Ever” (Oct. 26, 2023)

135. Homeland Security Comm’n, U. S. House of Rep., “FBI Director Wray Confirms the Border Crisis Poses Major Homeland Security Threat, DHS Secretary Mayorkas Stonewalls” (Nov. 15, 2023)
136. Homeland Security Comm’n, U. S. House of Rep., “Now Nobody Crosses Without Paying”: Senior Border Patrol Agents Describe Unprecedented Cartel Control at Southwest Border” (Dec. 14, 2023)
137. House Resolution 863, 118th Cong., 2d Session (Apr. 16, 2024)
138. ICE Press Release (Dec. 30, 2022)*
139. ICE Annual Report FY2022
140. Wall Street Journal (T. Gonzales), “Criminal Migrants Run Free in My District” (Oct. 21, 2024)
141. Letter from Gov. Greg Abbott to Col. Steven C. McGraw and others (Nov. 16, 2022)*
142. Letter from Governor Greg Abbott to President Joseph R. Biden, Jr. dated Jan. 8, 2023
143. Letter from Governor Greg Abbott to President Joseph R. Biden, Jr. dated July 24, 2023
144. Letter from Governor Greg Abbott to President Joseph R. Biden, Jr. dated Nov. 16, 2022
145. Letter to Speaker of the U. S. House of Representatives and other Congressional Leaders from Kevin R. Block and other former FBI and Counterintelligence Officials dated January 17, 2024 (“The United States is Facing a New and Imminent Danger”)
146. Natelson and Hyman, “The Constitution, Invasion, Immigration, and the War Powers of States”, Vol. 13, Issue 1, British Journal of American Legal Studies (2024)
147. Memorandum Dated May 3, 2022, from Inspector General of U. S. Dept. of Homeland Security to Troy A. Miller, et al.*
148. Texas Public Radio (J. Aguilar), “More than 5 Texans Die Every Die from Fentanyl. A New Online Dashboard is Tracking These Deaths” (July 15, 2023)
149. New York Times, “Growing Numbers of Chinese Migrants Are Crossing the Southern Border” (Nov. 24, 2023)

150. New York Times, “The Southern Border, Terrorism Fears and the Arrests of 8 Tajik Men” (June 25, 2024).
151. National Review, “Illegal Border Crossings Surged in July Despite Record Temperatures” (July 27, 2023)*
152. President’s Message to Congress on Continuation of National Emergency with Respect to Global Illicit Drug Trade (Dec. 12, 2022)*
153. Republican Governors Ass’n, “Republican Governors Band Together, Issue Joint Statement Supporting Texas’ Constitutional Right to Self-Defense” (Jan. 25, 2024)
154. Statement of Governor Greg Abbott (Jan. 24, 2024)
155. Statement of Mark Brnovich, former Attorney General of Arizona, to the U. S. House of Representatives Judiciary Subcommittee on the Constitution and Limited Government (Jan. 30, 2024).
156. Testimony summary of Rodney Scott September 14, 2023, at hearing on Terrorist Entry Through the Southwest Border before the Subcommittee on Immigration Integrity, Security, and Enforcement, Committee on the Judiciary, U.S. House of Representatives, One Hundred Eighteenth Congress, Thursday, September 14, 2023.
157. Presentation – Operation Lonestar – Michael Banks, Office of the Governor, Special Advisor to the Governor on Border Matters
158. U S Customs and Border Protection Apprehensions (2020 to 2023 YTD through June)*
159. U S Customs and Border Protection Apprehensions (2020 to 2023 YTD)*
160. U. S. Customs and Border Protection “CPB Releases June 2023 Monthly Update (July 18, 2023)*
161. U. S. Customs and Border Protection Apprehensions (2020 to 2023)*
162. U. S. Customs and Border Protection Drug Seizures (2020 to 2023)*
163. U. S. Customs and Border Protection, Patrolling the Rio Grande (Nov. 24, 2023).
164. Letter from Comm’n on Transp. & Infrastructure, U. S. House of Rep., to M. Connor and S. Spellmon (Oct. 19, 2023)
165. Statement of Brent Webster, First Assistant Attorney General of Texas, to the U. S. House of Representatives Judiciary Subcommittee on the Constitution and Limited Government and Ex. 1-6 (Jan. 30, 2024)

166. Mexico News Daily, “US Ambassador emphasizes strong US-Mexico ties amid new rules for his position” (October 18, 2024)
167. CNN, “A water war is looming between Mexico and the US. Neither side will win” (June 17, 2024)
168. NPR, “Water treaty between Mexico and U.S. faces biggest test in 80 years” (August 16, 2024)
169. Bureau of Western Hemisphere Affairs, U.S. Relations with Mexico: Bilateral Relations Fact Sheet (September 16, 2024)
170. Associated Press, “5 Issues Ahead of Mexico’s Presidential Election” (March 4, 2024)
171. New York Times, “Mexico Pauses Relations With U.S. Embassy Amid Clash Over Judicial Overhaul” (August 27, 2024)
172. NPR, “Mexico Files Complaint over Texas’ floating barriers on the Rio Grande” (July 15, 2023)
173. Reuters, “Mexico says Texan buoys in Rio Grande breach water treaty” (July 14, 2023)
174. Information Note No. 4, “Information note on the actions being taken by the U.S. in the Rio Grande River in the area of Eagle Pass, Texas” (July 14, 2023)
175. Information Note No. 5, “The Government of Mexico sends a second diplomatic note to the U.S. regarding the actions being taken by Texas in the Eagle Pass area of the Rio Grande River” (July 26, 2023)
176. Dr. F. Douglas Shields, Jr., Testimony History. (Served Jun. 28, 2024)
177. Article “Port Director Appointed to PAAC”
178. Article “Port Director to Serve as GPA President”
179. Article “Walker Smith, Port of Harlingen’s Port Director Appointed to TxDOT Port Authority Advisory Committee”
180. Excerpt from Port of Harlingen Website
181. 2020-21 Port of Harlingen Annual Report
182. 2021-22 Port of Harlingen Annual Report
183. 2022-23 Port of Harlingen Annual Report

184. Port of Harlingen Master Plan
185. Expert Designations and Opinions of Kathy Alexander and Michael Banks
186. Resume of Michael W. Banks
187. Transcript of Preliminary Injunction Hearing (Aug. 22, 2023)
188. USACE Easement Deed
189. Defendants' First Set of Interrogatories
190. Defendants' First Set of Requests for Admission
191. Plaintiff's Fourth Amended Responses to Defendants' Interrogatories
192. Plaintiff's Second Amended Responses to Defendants' Requests for Admission

Defendants reserve the right to offer such rebuttal exhibits as they deem appropriate based on the testimony and other evidence admitted at trial; to change the order of exhibits set forth above; and to offer an incomplete selection of the exhibits set forth above.

III. DEFENDANTS' DEPOSITION DESIGNATIONS

Please find the deposition designations for the following witnesses attached as Exhibit A:

1. Walker Smith
2. Mario Gomez (August 7, 2023)
3. Mario Gomez (July 16, 2024)
4. Neil Lebsock
5. Joseph Shelnutt
6. United States Border Patrol 30(b)(6) designee Micky Donaldson
7. City of Eagle Pass, Texas 30(b)(6) designee Ivan Morua
8. United States Coast Guard 30(b)(6) designee Retired Captain Kevin Kiefer
9. United States Coast Guard 30(b)(6) designee Captain Michael Cintron

10. United States Army Corps of Engineers 30(b)(6) designee Margaret Gaffney-Smith
11. Tim MacAllister
12. United States Section of IBWC 30(b)(6) designee Isela Canava

IV. ESTIMATE OF TRIAL TIME

Defendants estimate that the presentation of the Defendants' evidence in this case will require approximately 32 hours of trial time, exclusive of cross-examination of witnesses by Plaintiff.

V. PROPOSED STIPULATIONS OF FACT

Plaintiff and Defendants jointly propose the following Stipulations of Fact:³

1. Defendants caused the Floating Buoy Barrier to be placed in the Rio Grande River about two miles downstream from the Camino Real International Bridge in Maverick County, Texas, in July 2023.
2. Defendants did not seek or obtain a Section 10 Permit from the United States Army Corps of Engineers with respect to placement of the Floating Buoy Barrier in the Rio Grande River.
3. The Floating Buoy Barrier is, and has since at least August 31, 2023, been located entirely within the boundaries of the United States of America and the State of Texas.

³ Texas reserves its rights to make and enter into additional stipulations prior to the start of trial.

Dated October 28, 2024

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CERTIFICATE OF SERVICE

On October 28, 2024, this document was filed electronically through the Court's CM/ECF system, which automatically serves all counsel of record.

/s/ David Bryant
DAVID BRYANT
Senior Special Counsel